IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 7TH NOVEMBER 2006 / 16TH KARTHIKA 1928

WP(C).No. 29720 of 2004(K)

PETITIONER:

THE MUTHOLY SERVICE CO-OPERATIVE
BANK LTD.NO.1631, THEKKEMURI, PULIYANNOOR P.O.,
KOTTAYAM DISTRICT, REPRESENTED BY ITS
SECRETARY, M.V.SUNNY.

BY ADV. SRI.K.G.ANIL BABU
SMT.K.A.SHYLA

RESPONDENT:

THE KERALA STATE CO-OPERATIVE
EMPLOYEES PENSION BOARD,
THIRUVANANTHAPURAM-1, REPRESENED BY
ITS SECRETARY.

BY ADV. SRI.T.R.RAMACHANDRAN NAIR, SC,KSCEPB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO. 29720/2004

APPENDIX

PETITIONER'S EXHIBITS:-

P1: True copy of the letter No.PB/OR-1/95-96 600, along with the statement in form No.1, dated 1-8-1996

P2: True copy of the demand notice No.1619/03 dated 30-8-2003 along with the proforma.

P3: The true copy of the circular No.22/81 dated 18-5-1981 issued by the Registrar of Co-operative Societies.

P4: The true copy of the detailed statement explaining that the demand for Rs.15851 submitted by the petitioner before the respondent.

P5: The true copy of the Letter No.P8/p1/27666/KTM dated 1-12-2003 issued bythe respondent to the petitioner.

P6: The true copy of the judgment in W.P.(C) 4006/2003 before the High Court of Kerala, Ernakulam dated 6-7-2004.

P7: The true copy of the Argument note submitted by the Counsel for the petitioner before the respondent's Secretary

P8: The true copy of the instructions of the Board for computing the pension contribution.

P9: The true copy of the Secretary's Orders rejecting Ext.P4 dated 18-8-2004

P10: The true copy of the Government Order in G.O.(P)No.9/99/Co-op. Dated 22-1-1999

K. Thankappan, J.

- -

W.P.(C). No. 29720 of 2004

- -

Dated this the 7th day of November, 2006

JUDGMENT

Aggrieved by Ext.P9 order the petitioner bank has approached this Court. By Ext.P9 order the respondent rejected the contention that the pension fund for the period from 1-4-1989 to 30-6-1991 not to be levied.

2. As per Ext.P2 demand notice, the respondent found that there was a short remittance of Rs.5423/- in the initial remittance of the pension fund in respect of the petitioner. Learned counsel for the petitioner submits that the demand made as per Ext.P2 and P5 is illegal and without jurisdiction. In P8 instructions it is categorically stated that "no additional contribution is to be calculated for the period to which payment of arrears are exempted by Govt. by the respective pay revision orders". It is also stated that "eligible pay may be reckoned from time to time except the period for which exemption from payment of arrears is ordered by Government". This was not considered by the respondent in Exts.P2, P5 and P9. In the counter affidavit filed for and on behalf of the respondent it is stated that "if any amount is found to be transferred to the pension fund in respect of any employee, such amount will also be transferred and remitted to the pension fund with interest". In the circumstances, it is not proper for

the respondent to claim any additional amount on the basis of the pay revision which the beneficiaries are allowed at future date. Hence, Ext.P9 order has to be re-considered.

3. In the circumstances, Ext.P9 is quashed and the respondent is directed to re-consider the matter and pass appropriate orders as early as possible, at any rate within three months from the date of receipt of copy of this judgment. While considering the matter, the petitioner will be afforded an opportunity of being heard in the matter. The matter shall be considered by the Secretary of the respondent.

The writ petition is disposed of as above.

K.Thankappan,
Judge.

mn.

K. Thankappan,J.

- - - - - - - - - - - - - - - -

W.P.(C) No. /2006

- - - - - - - - - - - - - - - -

Judgment
7-11-2006